

DISTRICT COURT OF THE VIRGIN ISLANDS  
DIVISION OF ST. THOMAS AND ST. JOHN

JUNIOR JOSEPH RICE,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Criminal No. 2016-23
	)	
U.S. CONGRESS, U.S. SUPREME	)	
COURT,	)	
	)	
Defendants.	)	
	)	

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**ATTORNEYS:**

**Junior Joseph Rice**  
Laurinburg, NC  
*Pro se.*

**ORDER**

**GÓMEZ, J.**

Before the Court are the pleadings of Junior Joseph Rice.

According to Junior Joseph Rice ("Rice"), on December 5, 2012, he pled guilty to one count of attempted statutory rape in Mecklenburg County Superior Court in Charlotte, North Carolina. Pet. for Writ of Habeas Corpus at 1, ECF No. 7. Rice was sentenced to 92-173 months in prison. *Id.* at 1. Rice is confined at Scotland Correctional Institute in Laurinburg, North Carolina. See Complaint at 1, ECF No. 5.

On February 18, 2016, Rice filed a document in the instant case. See Complaint, ECF No. 1. That document was unclear as to

whether Rice was asserting violations of his civil rights or was challenging his incarceration on some other basis.

On February 25, 2016, the Magistrate Judge ordered the Clerk of Court to furnish Rice with a copy of the District Court's Prisoner Civil Rights packet and 28 U.S.C. § 2254 packet. The Magistrate Judge directed Rice to file either an amended complaint or amended habeas petition in this matter.

On March 28, 2016, Rice filed a complaint against the U.S. Congress, U.S. Supreme Court, and United States of America asserting claims under 42 U.S.C. § 1983. See Complaint, ECF No. 5. Rice also filed a motion to proceed in forma pauperis. See Mot. for Leave to Proceed In Forma Pauperis, ECF No. 6. Additionally, Rice filed a petition for a writ of habeas corpus. See Pet. for Writ of Habeas Corpus, ECF No. 7.

On January 30, 2019, the Magistrate Judge issued a report and recommendation in this matter. See Report and Recommendation, ECF No. 8. In the report and recommendation, the Magistrate recommends that the Court: (1) transfer Rice's civil rights action under 42 U.S.C. § 1983 to the Middle District of North Carolina; and (2) dismiss Rice's petition for habeas corpus relief under 28 U.S.C. § 2254 for lack of jurisdiction.

Rice has not filed any objections to the January 30, 2019, report and recommendation.

When a Magistrate issues a report and recommendation, the Court is required to review *de novo* only those portions of the report and recommendation to which a party has objected. See Fed. R. Civ. P. 72(b)(3). When no objection to a magistrate's report and recommendation is made, or such an objection is untimely, the district court reviews the report and recommendation for plain error. See *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987) ("While . . . [28 U.S.C. § 636(b)(1)] may not require, in the absence of objections, the district court to review the magistrate's report before accepting it, we believe that the better practice is for the district judge to afford some level of review to dispositive legal issues raised by the report."); see also *Tice v. Wilson*, 425 F. Supp. 2d 676, 680 (W.D. Pa. 2006) *aff'd*, 276 Fed. App'x 125 (3d Cir. 2008) (explaining that, by failing to object to a portion of a report and recommendation, the litigant "waived its right to have this Court conduct a *de novo* review," and that in those circumstances, "the scope of [the court's] review is far more limited and is conducted under the far more deferential standard of 'plain error'").

Here, no objections were filed to the January 30, 2019, report and recommendation. Accordingly, the Court will review the Magistrate's Report and Recommendation for plain error.

To reject or modify a report and recommendation under plain error review, a district court must find "an 'error' that is 'plain' and that 'affects substantial rights.'" *United States v. Russell*, 134 F.3d 171, 181 (3d Cir. 1998) (quoting *United States v. Retos*, 25 F.3d 1220, 1228 (3d Cir. 1994)). "A 'plain' error is one that is 'clear' or 'obvious.'" *Gov't of Virgin Islands v. Lewis*, 620 F.3d 359, 364, 54 V.I. 882 (3d Cir. 2010) (quoting *United States v. Turcks*, 41 F.3d 893, 897 (3d Cir. 1994)).

Reviewing the record in this case and the January 30, 2019, report and recommendation for plain error, the Court is convinced that the Magistrate Judge's factual and legal findings are correct. As such, the Court will adopt the findings and reasoning in the January 30, 2019, report and recommendation.

The premises considered, it is hereby

**ORDERED** that the January 30, 2019, report and recommendation is **ADOPTED**; it is further

**ORDERED** that Junior Rice's § 2254 petition is **DISMISSED** for lack of jurisdiction; and it is further

**ORDERED** that Junior Rice's civil rights action under 42 U.S.C. § 1983 is **TRANSFERRED** to the Middle District of North Carolina.

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**CURTIS V. GÓMEZ**  
**District Judge**